

# HALL & ASSOCIATES

1620 I Street, NW  
Suite 701  
Washington, DC 20006-4033  
Telephone: (202) 463-1166      Web: <http://www.hall-associates.com>      Fax: (202) 463-4207

Reply to E-mail:  
Email: [bkirby@hall-associates.com](mailto:bkirby@hall-associates.com)  
Website: <http://www.hall-associates.com>

January 9, 2018

## **Via FOIA Online**

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

## **RE: FOIA Request for Records Related to EPA Granting Variances, Waivers, or Extensions of Compliance Schedules to Allow for Attempted Remediation of the Controlling Invasive Species or Man-Induced Conditions Preventing Water Quality Criteria and Use Attainment**

To Whom This May Concern:

This is a request for public records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as implemented by the Environmental Protection Agency (“EPA”) at 40 C.F.R. Part 2.

### **Background**

This request seeks EPA records addressing whether a water quality standard (“WQS”) variance or waiver may be granted where numeric criteria or use attainment is precluded by an invasive species (*e.g.*, where invasive plants dominate the water column preventing swimming uses or invasive carp causing high algal levels due to eliminations of rooted plants, sediment disturbance, and nutrient cycling).

Some delegated states have indicated that the inability to achieve applicable numeric criteria or designated uses due to a “man-created” condition renders that situation ineligible for a variance or waiver to the adopted standard. These same delegated states are classifying the presence of such invasive species as a man-induced condition.

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## Request

This request seeks:

1. All EPA documents addressing either generally or site-specifically whether a variance, waiver, or deferral to WQS compliance may be based on the existence of a man-induced condition that precludes use attainment (*e.g.*, acid mine drainage, dam construction or removal).

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Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$100.00. Please duplicate the records that are responsive to this request and send it to the undersigned at the above address. If the requested record is withheld based upon any asserted privilege, please identify the basis for the non-disclosure.

If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that only the necessary document is duplicated.

Respectfully,

//s// Ben Kirby  
Benjamin M. Kirby